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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,417	01/24/2001	John R. Wullert II	1256-US	4772

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EXAMINER

BUI, BING Q

ART UNIT	PAPER NUMBER
2642	6

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/768,417	WULLERT, JOHN R.
	Examiner	Art Unit
	Bing Q Bui	2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 02 July 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-11 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. This action is in response to applicant's response filed on July 02, 2003. Claims 1-11 are now pending in the present application. **This action is made final.**

### *Claim Rejections - 35 USC § 102*

2. Claims 1-8 and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Bajzath et al (U.S. Patent No. 6,144,644).

**Regarding claim 1**, Bajzath et al teach a communication system for advising an intended called party recipient of the availability of the calling party sender for return messages (e.g., a telephone number where a calling party is available for receiving a return call from the called party; see Fig. 7, elements "730, 732, 750" and "752 or 754" and col. 7, Ins 16-30), said system comprising:

a data terminal (i.e., "PC 130") associated with each of said calling and called parties (see Fig. 2, element "END USER ENVIRONMENT 205"; it is noted that for illustration, the only one "end user environment" is shown in Fig. 2 because it is inherent that in a communication system, more than one "end user environments" can be connected to a SSP and to be served by such SSP; and it is also noted that in one communication process between two users, one end user can be a calling party and another one can be a called party who receives a call from the calling party).

a message routing module (i.e., "SSP 140") for interconnecting said calling and called parties (see Fig. 2, element "SSP 140" and col. 3, Ins 52 - 54; it is noted that for illustration, the only one "end user environment" is shown in Fig. 2 because it is inherent that in a communication system, more than one "end user environments" can be connected to a SSP and to be served by such SSP; and it is also noted that in one communication process between two users, one end user can be a calling party and another one can be a called party who receives a call from the calling party); and

a presence processor (i.e., "SCP 145") connected to said data terminal of said calling and called parties and obtaining from a calling party descriptive information (e.g., "name" of the calling party) and availability status information of said calling party (e.g., a telephone number where a calling party is available for receiving a return call from the called party; see Fig. 2, element "SCP 145" and col. 6, Ins 12 - 15; Fig. 7, elements "730, 732, 750" and "752 or 754" and col. 7, Ins 16-30),

    said message routing module (i.e., "SSP 140") communicating with said presence processor (i.e., "SCP 145") in response to said calling party not completing a call to said called party and said presence processor in response thereto forwarding to the data terminal of said called party said descriptive information and said availability status information of said calling party (see Fig. 6A, steps "600" - "660" and col. 6, Ins 7-16 and Ins 33 - 53; Fig. 7, elements "730, 732, 750" and "752 or 754" and col. 7, Ins 16-30)).

**Regarding claim 2**, Bajzath et al further teach the presence processor (i.e., "SCP 145") includes circuitry for communicating with said data terminals (i.e., "END

USER ENVIRONMENT 205") and said message routing module (i.e., "SSP 140"), a datastore (i.e. "CALL WAITING INTERNET SERVER 215") for storing status information, and status processor (see Fig. 2 and col. 4, Ins 22 - 38).

**Regarding claim 3**, Bajzath et al further teach the communication system is a telephone system (see Fig. 2 and element "PSTN 210").

**Regarding claim 4**, Bajzath et al further teach the message routing module (i.e., "SSP 140") is a call agent (it is noted that SSP interacts with other components (i.e., SCP, other SSP or terminals) within a communication network for appropriately routing a call requested by a calling party associated with such SSP is considered "an agent", because by definition, an agent is an entity acting on behalf of another.

**Regarding claim 5**, Bajzath et al further teach communications between said call agent (i.e., "SSP 140"), said presence processor (i.e., "SCP 145"), and said calling and called parties, including said data terminals, are through a packet-based communication network (see Fig. 2 and col. 4, Ins 18 - 38).

**Regarding claim 6**, Bajzath et al further teach a residential gateway (i.e., "MODEM 135") between each of said calling and called parties and said packet-based communication network (see Fig. 2, element "MODEM 135" and col. 36 - 42; it is noted that the "MODEM 135" is appropriate for reading on gateway because by definition, gateway is an entrance and exit into a communications network).

**Regarding claim 7**, Bajzath et al further teach the message routing module is a telephone switch (i.e., "SSP 140") and said presence processor is a service control

point (i.e., "SCP 145") (see Fig. 1, elements "SSP 140" and "SCP 145"; and col. 3, Ins 49 - 58).

**Regarding claim 8**, Bajzath et al further teach a packet based network (i.e., Internet Service Provider "ISP 115") connecting said service control point (i.e., "SCP 145") to said data terminals (i.e., "PC 130") of said calling and called parties. (See Fig. 2 and col. 4, Ins 18 - 38).

**Regarding claim 10**, Bajzath et al further teach the availability status information indicates the calling party's availability for return communication from the called party (e.g., a telephone number where a calling party is available for receiving a return call from the called party; see Fig. 7, elements "730, 732, 750" and "752 or 754" and col. 7, Ins 16-30).

**Regarding claim 11**, Bajzath et al further teach the presence processor is operative to dynamically update said status information (see col. 6, Ins 33 - 53).

#### ***Claim Rejections - 35 USC § 103***

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bajzath et al (U.S. Patent No. 6,144,644) as applied to claim 1 above, and further in view of Bateman et al (U.S. Patent No. 6,311,231).

**Regarding claim 9**, Bajzath et al fail to teach the data terminal includes a scheduling calendar, said presence processor obtaining the availability status information from said scheduling calendar. However, Bateman et al teach a multimedia message manager that allows an agent to schedule call back to a customer in

accordance with the customer's preferred time for call-back (see col. 7, Ins 13-41 and col. 11, Ins 61-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a system for obtaining and storing the caller's scheduled available time for placing a callback as requested by the caller, as taught by Bateman et al, into communication system of Bajzath et al in order to provide benefit to both calling and called parties.

### ***Response to Arguments***

4. Applicant's arguments filed July 02, 2003 regarding claim 1 have been fully considered but they are not persuasive.

With respect to the recited claim, Applicant mainly argues that Bajzath et al fail to teach the "descriptive information of a caller" and "the availability status information of the called party".

Examiner respectfully disagrees because the "name of the caller" taught by Bajzath et al is considered as "descriptive information of the caller"; and "a telephone number where a caller is available for receiving a return call from the called party" taught by Bajzath et al is considered as "the availability status information of the caller" (see Fig. 7, elements "730, 732, 750" and "752 or 754" and col. 7, Ins 16-30).

5. Applicant's arguments with respect to claim 9 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bing Bui whose telephone number is (703) 308-5858. The examiner can normally be reached on Monday through Thursday from 7:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314 and for formal communications intended for entry (please label the response

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"EXPEDITED PROCEDURE") or for informal or draft communications not intended for entry (please label the response "PROPOSED" or "DRAFT").

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Sep 12, 2003



AHMAD MATAR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600